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115

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/091, 704 10/13/98 FRANKE

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IM22/1014

EXAMINER

MERCHANT GOULD SMITH EDELL  
WELTER & SCHMIDT  
3100 NORWEST CENTER  
90 SOUTH SEVENTH STREET  
MINNEAPOLIS MN 55402-4131

XU, H

ART UNIT	PAPER NUMBER
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1774

DATE MAILED:

10/14/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

<b>Office Action Summary</b>	Application No. 09/091,704	Applicant(s) <b>Franke</b>
	Examiner <b>Hong J. Xu</b>	Group Art Unit <b>1774</b>

Responsive to communication(s) filed on Oct 13, 1998

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

#### Disposition of Claims

Claim(s) 1-64 is/are pending in the application.

Of the above, claim(s) 2, 3, 16, 17, and 27-64 is/are withdrawn from consideration.

Claim(s) \_\_\_\_\_ is/are allowed.

Claim(s) 1, 4-15, and 18-26 is/are rejected.

Claim(s) \_\_\_\_\_ is/are objected to.

Claims \_\_\_\_\_ are subject to restriction or election requirement.

#### Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been

received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). 1001

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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## **DETAILED ACTION**

### *Election/Restriction*

1. Applicant's election without traverse of claims 1, 4-15, 18-26 in Paper No. 8 is acknowledged. The non-elected claims are withdrawn from examination.

### *Specification*

2. Since drawings are submitted with this application, a brief description of drawings is needed in the specification.

### *Claim Rejections - 35 USC § 112*

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 4, 7, 9, 13, 14, 15, 18-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

o ↵ Claim 4, line 3, recites a "plastis sheet." Proper spelling is needed here.

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Claims 7, 9, 13, 14, 18, 20, 24, 25 all recites a transparent elastomer layer (4). There is insufficient antecedent basis for this limitation in the claim. The feature of this layer was specifically restricted out during the restriction.

Claim 15, the last two words are "said layer." It is not clear which layer the applicant is referring to since there are more than one layers mentioned in the claim. All its dependant claims are rejected for the same reason.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 4, 5, 13, 14, 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Olsen.

Olsen discloses a transfer for decorating textiles with image (Abstract). Its transfer comprises a support sheet with image printed on it. The color layer contains a polyester or polyamide based elastomer. On top of the color layer is a polyester based glue layer (Abstract). The support sheet used comprises a Kraft-paper covered with a thermoplastic layer of low-density polyethylene (page 18, line 8-9).

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Please note that claims 13 and 14 has limitations on how printings are done. Although these claims are limited by and defined by the process of printing, determination of patentability is based on the product itself. It does not depend on how the products are made. MPEP 2113.

All limitations are met by the disclosure of the reference.

*Claim Rejections - 35 USC § 103*

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Olsen.

As discussed above, Olsen discloses a transfer with similar layers of material as the current application. But Olsen did not teach the use of high density polypropylene as its support sheet.

However, it would have been obvious to one with ordinary skill in the art at the time of the invention to substitute paper with plastic fibers such as high density polypropylene so that the support sheet will have higher strength than paper material.

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***Allowable Subject Matter***

9. Claims 7-12 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2<sup>nd</sup> paragraph, set forth in this Office action and/or to include all of the limitations of the base claim and any intervening claims.

***Conclusion***

10. Should you have any questions concerning this communication, please direct them to Hong J. Xu at 703-305-1035. The examiner can be reached at this number from 8:00 am to 4:30 pm E.S.T. Monday -Friday. If attempts to reach the examiner by telephone prove unsuccessful, the examiner's supervisor, William Krynski, can be reached at 703-308-2376. Please allow the examiner twenty-four hours to return your call.

A facsimile center has been established for Group 1700 on the 8th floor of Crystal Plaza 3. The hours of operation are Monday through Friday, 8:45 am to 4:45 pm. The fax numbers for Art Unit 1700 are 703-305-3599 for official after-final faxes, and 703-305-5408 for all other official faxes. Use of the Group 1700 center will facilitate rapid delivery of materials to examiners in Art Unit 1774.

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Any inquiry of a general nature, or those relating to the status of this application should be directed to the group receptionist whose telephone number is 703-308-2351.



William Krynski  
Supervisory Patent Examiner  
Technology Center 1700

hjx *HJX*

October 6, 1999